

Appl. No. 10/686,461
Atty. Docket: 2002B165A
Amdt. dated May 15, 2006
Reply to Office Action of February 13, 2006

REMARKS/ARGUMENTS

Claim Status – Election and Request for Reconsideration

Reconsideration of this application is requested. The claims presented for reconsideration are claims 1-24, 26-77, and 90-92.

Claim 1 has been amended by adding the subject matter of now canceled claim 25. Claims 78-89 and 93 have been canceled in response to the restriction requirement. Accordingly, no new matter is entered by way of this amendment.

Claim Rejections – 35 USC § 102

Claims 1, 6, and 24 were rejected under 35 USC § 102(b) as being anticipated by *Vora et al.*, U.S. Patent No. 5,714,662 (hereinafter *Vora*). Claims 1, 6, and 24 were also rejected under 35 USC § 102(e) as being anticipated by *Janda et al.*, U.S. Patent No. 6,486,219 (hereinafter *Janda*).

Independent claim 1 recites a process for removing metalloaluminophosphate molecular sieve contaminants from an oxygenate feed and converting the oxygenate in the feed to olefin product. According to claim 1, for example, oxygenate feed is heated to form a vapor stream containing a majority of oxygenates in the oxygenate feed and a liquid stream containing a majority of metalloaluminophosphate molecular sieve contaminants in the oxygenate feed. Claim 1 also recites that the vapor stream is separated from the liquid stream, and that the separated vapor stream is contacted with metalloaluminophosphate molecular sieve to convert the oxygenates in the stream to olefin product. Claim 1, as amended, also recites that at least a portion of the separated liquid stream is discarded.

Vora discloses a process that combines a methanol plant with an oxygenate conversion process. According to column 3, lines 32-35, the process sends “crude methanol as produced in the methanol plant to the methanol CO olefins process without removing the water or the impurities.” The *Vora* process is clearly not concerned with removing impurities and differs significantly from the claimed invention. Nowhere does *Vora* discuss removing impurities from an oxygenate feed stream in the form of a liquid stream. Neither does *Vora* disclose discarding

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any portion of the liquid stream that contains the impurities. Accordingly, Vora fails to disclose or suggest the invention, as recited in independent claim 1, as amended.

Janda discloses a method for producing methanol and hydrocarbons from a methane-containing gas. The method includes integrating a hydrocarbon synthesis unit with a methanol synthesis unit. In one embodiment, olefin can be made from the methanol that is produced. Janda is not concerned with removing impurities from an oxygenate feed stream in the form of a liquid stream, nor does Janda disclose discarding any portion of the liquid stream that contains the impurities. Accordingly, Janda fails to disclose or suggest the invention, as recited in independent claim 1, as amended.

Claims 1, 6, 11, and 24 were also rejected under 35 USC § 102(e) as being anticipated by U.S. Patent No. 6,846,966 to Lumgair, Jr. *et al.* (hereinafter Lumgair). Lumgair, however, is the parent case to which the instant application claims priority as a CIP. To the extent that the rejected claims recite subject matter disclosed in Lumgair, Applicants respectfully submit that the instant application and Lumgair have identical effective filing dates, thus removing Lumgair as a § 102(e) reference. To the extent that the rejected claims recite subject matter not disclosed in Lumgair, and thus entitled to the filing date of the instant application only, Applicants respectfully submit that Lumgair does not disclose or suggest such subject matter, thus distinguishing the instantly rejected claims from Lumgair under § 102(e).

Applicants respectfully submit that it is Examiner's burden to assess effective filing dates of claims and to assert with specificity to what extent, if at all, any new matter as of the filing date of the instant application is anticipated by, or obvious over, Lumgair. Without such specific findings by Examiner, Applicants respectfully submit that the § 102(e) rejection cannot be maintained and respectfully request its reconsideration and withdrawal.

Claim Rejections - 35 USC § 103

Claims 2-5, 7-10, 12-23, 25-27, and 90-92 were rejected under 35 USC § 103(a) as being obvious over Lumgair for the reasons set forth on pp. 6-9 of the Office Action. Applicants traverse this rejection.

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As mentioned above, at best, Lumgair is a § 102(e) reference, and its inventive entity, like the inventive entity of the instant application, had an obligation to assign its invention to the same assignee, i.e., ExxonMobil Chemical Patents Inc. As such, 35 USC § 103(c) precludes the use of Lumgair in obviousness rejections against the instant application claims.

Thus, Applicants respectfully submit that the obviousness rejection cannot be maintained and respectfully request its reconsideration and withdrawal.

These rejections are traversed and reconsideration is requested.

Double Patenting

Claim 1 was rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,846,966. Claims 1, 6, 11, 24, 28, and 40 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 25, 28, and 48 of co-pending Application No. 10/865,281.

Regarding these double patenting rejections, Applicants respectfully submit that, due to the still-changeable nature of the claims, these rejections should be held in abeyance, e.g., until such point as the claims are allowable but for such double patenting rejections. At that juncture, Applicants will, if necessary, submit the appropriate terminal disclaimer(s) to obviate any then-pending double patenting rejections. Applicants respectfully submit that these rejections are not ripe for resolution until there are otherwise allowable claims.

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CONCLUSION

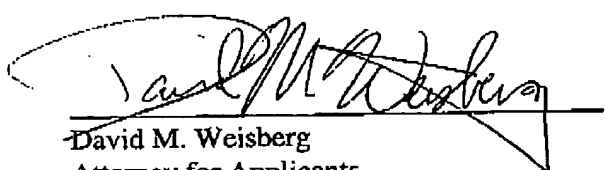
Having demonstrated that the claims of this application are allowable, this application is in condition for allowance. Accordingly, Applicants request early and favorable reconsideration in the form of a Notice of Allowance.

If there are any questions regarding this or the application in general, a telephone call to the undersigned would be appreciated, since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response. Please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1712 (Docket #: 2002B165A).

Respectfully submitted,

Date: 6/5/06


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